

House Bill 1470 (AS PASSED HOUSE AND SENATE)

By: Representatives Jones of the 46<sup>th</sup> and Burkhalter of the 50<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To incorporate the City of Milton in Fulton County, Georgia; to provide a charter for the City  
2 of Milton; to provide for incorporation, boundaries, and powers of the city; to provide for a  
3 governing authority of such city and the powers, duties, authority, election, terms, method  
4 of filling vacancies, compensation, qualifications, prohibitions, and removal from office  
5 relative to members of such governing authority; to provide for inquiries and investigations;  
6 to provide for organization and procedures; to provide for ordinances and codes; to provide  
7 for the offices of mayor and city manager and certain duties and powers relative to those  
8 offices; to provide for administrative responsibilities; to provide for boards, commissions,  
9 and authorities; to provide for a city attorney, a city clerk, a city treasurer, and other  
10 personnel; to provide for rules and regulations; to provide for a municipal court and the judge  
11 or judges thereof; to provide for practices and procedures; to provide for taxation and fees;  
12 to provide for franchises, service charges, and assessments; to provide for bonded and other  
13 indebtedness; to provide for accounting and budgeting; to provide for purchases; to provide  
14 for the sale of property; to provide for bonds for officials; to provide for eminent domain; to  
15 provide for penalties; to provide for definitions and construction; to provide for other matters  
16 relative to the foregoing; to provide for a referendum; to provide effective dates; to provide  
17 for transition of powers and duties; to provide for directory nature of dates; to provide for a  
18 charter commission; to provide for severability; to repeal conflicting laws; and for other  
19 purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 **ARTICLE I**

22 **INCORPORATION AND POWERS**

23 **SECTION 1.10.**

24 **Incorporation.**

25 The City of Milton in Fulton County is incorporated by the enactment of this charter and is

1 constituted and declared a body politic and corporate under the name of the "City of Milton."  
2 References in this charter to "the city" or "this city" refer to the City of Milton. The city shall  
3 have perpetual existence.

#### 4 **SECTION 1.11.**

##### 5 Corporate boundaries.

6 The incorporated area of this city shall consist of all of that portion of Fulton County, as set  
7 forth and described in Appendix A of this charter, which Appendix is incorporated herein by  
8 reference, and which portion of Fulton County was unincorporated as of January 1, 2006; and  
9 with such alterations as may be made thereafter from time to time by local law or in the  
10 manner provided by general state law. As used in this charter, the term "Territory" means  
11 the area described in this section. The boundaries of this city at all times shall be shown on  
12 a map, a written description, or any combination thereof, to be retained permanently in the  
13 office of the city clerk of the city and to be designated, as the case may be: "Official Map or  
14 Description of the Corporate Limits of the City of Milton, Georgia." Photographic, typed, or  
15 other copies of such map or description certified by the mayor shall be admitted as evidence  
16 in all courts and shall have the same force and effect as the original map or description.

#### 17 **SECTION 1.12.**

##### 18 Municipal powers.

19 (a) This city shall have all powers possible for a city to have under the present or future  
20 Constitution and laws of this state as fully and completely as though they were specifically  
21 enumerated in this charter. This city shall have all the powers of self-government not  
22 otherwise prohibited by this charter or by general law.

23 (b) The powers of this city shall be construed liberally in favor of the city. The specific  
24 mention or failure to mention particular powers shall not be construed as limiting in any way  
25 the powers of this city. Said powers shall include, but are not limited to, the following:

26 (1) Air and water pollution. To regulate the emission of smoke or other exhaust which  
27 pollutes the air and to prevent the pollution of natural streams which flow within the  
28 corporate limits of the city;

29 (2) Animal regulations. To regulate and license or to prohibit the keeping or running at  
30 large of animals and fowl and to provide for the impoundment of same if in violation of  
31 any ordinance or lawful order; to provide for the disposition by sale, gift, or humane

1 destruction of animals and fowl when not redeemed as provided by ordinance; and to  
2 provide punishment for violation of ordinances enacted under this paragraph;

3 (3) Appropriations and expenditures. To make appropriations for the support of the  
4 government of the city; to authorize the expenditure of money for any purposes  
5 authorized by this charter and for any purpose for which a municipality is authorized by  
6 the laws of the State of Georgia; and to provide for the payment of expenses of this city;

7 (4) Building regulations. To regulate and to license the erection and construction of  
8 buildings and all other structures not inconsistent with general law; to adopt building,  
9 housing, plumbing, electrical, gas, and heating and air-conditioning codes; and to regulate  
10 all housing and building trades except as otherwise prohibited by general law;

11 (5) Business regulation and taxation. To levy and to provide for the collection of license  
12 fees and taxes on privileges, occupations, trades, and professions; to license and regulate  
13 the same; to provide for the manner and method of payment of such licenses and taxes;  
14 and to revoke such licenses after due process for the failure to pay any city taxes or fees;

15 (6) Condemnation. To condemn property, inside or outside the corporate limits of the  
16 city, for present or future use and for any corporate purpose deemed necessary by the  
17 governing authority, utilizing procedures enumerated in Title 22 of the O.C.G.A. or such  
18 other laws as are or may hereafter be enacted;

19 (7) Contracts. To enter into contracts and agreements with other governments and  
20 entities and with private persons, firms, and corporations;

21 (8) Emergencies. To establish procedures for determining and proclaiming that an  
22 emergency situation exists inside or outside the city and to make and carry out all  
23 reasonable provisions deemed necessary to deal with or meet such an emergency for the  
24 protection, safety, health, or well-being of the citizens of the city;

25 (9) Environmental protection. To protect and preserve the natural resources,  
26 environment, and vital areas of the city, the region, and the state through the preservation  
27 and improvement of air quality, the restoration and maintenance of water resources, the  
28 control of erosion and sedimentation, the management of storm water and establishment  
29 of a storm-water utility, the management of solid and hazardous waste, and other  
30 necessary actions for the protection of the environment;

31 (10) Ethics. To adopt ethics ordinances and regulations governing the conduct of  
32 municipal elected officials, appointed officials, and employees, establishing procedures  
33 for handling ethics complaints, and setting forth penalties for violations of such rules and  
34 procedures;

35 (11) Fire regulations. To fix and establish fire limits and from time to time extend,  
36 enlarge, or restrict the same; to prescribe fire safety regulations, not inconsistent with

1 general law relating to both fire prevention and detection and to fire fighting; and to  
2 prescribe penalties and punishment for violations thereof;

3 (12) Garbage fees. To levy, fix, assess, and collect a garbage, refuse, and trash collection  
4 and disposal and other sanitary service charge, tax, or fee for such services as may be  
5 necessary in the operation of the city from all individuals, firms, and corporations  
6 residing in or doing business within the city and benefiting from such services; to enforce  
7 the payment of such charges, taxes, or fees; and to provide for the manner and method  
8 of collecting such service charges;

9 (13) General health, safety, and welfare. To define, regulate, and prohibit any act,  
10 practice, conduct, or use of property which is detrimental to the health, sanitation,  
11 cleanliness, welfare, and safety of the inhabitants of the city and to provide for the  
12 enforcement of such standards;

13 (14) Gifts. To accept or refuse gifts, donations, bequests, or grants from any source for  
14 any purpose related to the powers and duties of the city and the general welfare of its  
15 citizens on such terms and conditions as the donor or grantor may impose;

16 (15) Health and sanitation. To prescribe standards of health and sanitation within the  
17 city and to provide for the enforcement of such standards;

18 (16) Homestead exemption. To establish and maintain procedures for offering  
19 homestead exemptions to residents of the city as authorized by Act of the General  
20 Assembly;

21 (17) Jail sentences. To provide that persons given jail sentences in the municipal court  
22 may work out such sentences in any public works or on the streets, roads, drains, and  
23 squares in the city; to provide for the commitment of such persons to any jail; or to  
24 provide for the commitment of such persons to any county work camp or county jail by  
25 agreement with the appropriate county officials;

26 (18) Motor vehicles. To regulate the operation of motor vehicles and exercise control  
27 over all traffic, including parking, upon or across the streets, roads, alleys, and walkways  
28 of the city;

29 (19) Municipal agencies and delegation of power. To create, alter, or abolish  
30 departments, boards, offices, commissions, and agencies of the city and to confer upon  
31 such agencies the necessary and appropriate authority for carrying out all the powers  
32 conferred upon or delegated to the same;

33 (20) Municipal debts. To appropriate and borrow money for the payment of debts of the  
34 city and to issue bonds for the purpose of raising revenue to carry out any project,  
35 program, or venture authorized by this charter or the laws of the State of Georgia;

1 (21) Municipal property ownership. To acquire, dispose of, and hold in trust or  
2 otherwise any real, personal, or mixed property, in fee simple or lesser interest, inside or  
3 outside the property limits of the city;

4 (22) Municipal property protection. To provide for the preservation and protection of  
5 property and equipment of the city and the administration and use of same by the public;  
6 and to prescribe penalties and punishment for violations thereof;

7 (23) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose  
8 of public utilities, including, but not limited to, a system of waterworks, sewers, and  
9 drains, sewage disposal, gas works, electric plants, transportation facilities, public  
10 airports, and any other public utility; and to fix the taxes, charges, rates, fares, fees,  
11 assessments, regulations, and penalties therefor; and to provide for the withdrawal of  
12 service for refusal or failure to pay the same; and to authorize the extension of water,  
13 sewerage, and electrical distribution systems, and all necessary appurtenances by which  
14 said utilities are distributed, inside and outside the corporate limits of the city; and to  
15 provide utility services to persons, firms, and corporations inside and outside the  
16 corporate limits of the city as provided by ordinance;

17 (24) Nuisances. To define a nuisance and provide for its abatement whether on public  
18 or private property;

19 (25) Penalties. To provide penalties for violation of any ordinances adopted pursuant to  
20 the authority of this charter and the laws of the State of Georgia;

21 (26) Planning and zoning. To provide comprehensive city planning for development by  
22 zoning and to provide subdivision regulation and the like as the city council deems  
23 necessary and reasonable to ensure a safe, healthy, and esthetically pleasing community;

24 (27) Police and fire protection. To exercise the power of arrest through duly appointed  
25 police officers and to establish, operate, or contract for a police and a fire-fighting  
26 agency;

27 (28) Public hazards; removal. To provide for the destruction and removal of any  
28 building or other structure which is or may become dangerous or detrimental to the  
29 public;

30 (29) Public improvements. To provide for the acquisition, construction, building,  
31 operation, and maintenance of public ways, parks, playgrounds, recreational facilities,  
32 cemeteries, markets and market houses, public buildings, libraries, public housing,  
33 airports, hospitals, terminals, docks, parking facilities, or charitable, cultural, educational,  
34 recreational, conservation, sport, curative, corrective, detentional, penal, and medical  
35 institutions, agencies, and facilities; to provide any other public improvements inside or  
36 outside the corporate limits of the city; to regulate the use of public improvements; and,

1 for such purposes, property may be acquired by condemnation under Title 22 of the  
2 O.C.G.A. or such other applicable laws as are or may hereafter be enacted;

3 (30) Public peace. To provide for the prevention and punishment of drunkenness, riots,  
4 and public disturbances;

5 (31) Public transportation. To organize and operate or contract for such public  
6 transportation systems as are deemed beneficial;

7 (32) Public utilities and services. To grant franchises or make contracts for public  
8 utilities and public services and to prescribe the rates, fares, regulations, and the standards  
9 and conditions of service applicable to the service to be provided by the franchise grantee  
10 or contractor, insofar as not in conflict with valid regulations of the Public Service  
11 Commission;

12 (33) Regulation of roadside areas. To prohibit or regulate and control the erection,  
13 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any  
14 and all other structures or obstructions upon or adjacent to the rights of way of streets and  
15 roads or within view thereof, inside or abutting the corporate limits of the city and to  
16 prescribe penalties and punishment for violation of such ordinances;

17 (34) Retirement. To provide and maintain a retirement plan for officers and employees  
18 of the city;

19 (35) Roadways. To lay out, open, extend, widen, narrow, establish or change the grade  
20 of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise  
21 improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and  
22 walkways within the corporate limits of the city; and to negotiate and execute leases over,  
23 through, under, or across any city property or the right of way of any street, road, alley,  
24 and walkway or portion thereof within the corporate limits of the city for bridges,  
25 passageways, or any other purpose or use between buildings on opposite sides of the  
26 street and for other bridges, overpasses, and underpasses for private use at such location  
27 and to charge a rental therefor in such manner as may be provided by ordinance; and to  
28 authorize and control the construction of bridges, overpasses, and underpasses within the  
29 corporate limits of the city; and to grant franchises and rights of way throughout the  
30 streets and roads and over the bridges and viaducts for the use of public utilities and for  
31 private use; and to require real estate owners to repair and maintain in a safe condition  
32 the sidewalks adjoining their lots or lands and to impose penalties for failure to do so;

33 (36) Sewer fees. To levy a fee, charge, or sewer tax as necessary to assure the acquiring,  
34 constructing, equipping, operating, maintaining, and extending of a sewage disposal plant  
35 and sewerage system; to levy on those to whom sewers and sewerage systems are made  
36 available a sewer service fee, charge, or tax for the availability or use of the sewers; to

1 provide for the manner and method of collecting such service charge; and to impose on  
2 and collect a sewer connection fee or fees from those connected to the system;

3 (37) Solid waste disposal. To provide for the collection and disposal of garbage, rubbish,  
4 and refuse and to regulate the collection and disposal of garbage, rubbish, and refuse by  
5 others; and to provide for the separate collection of glass, tin, aluminum, cardboard,  
6 paper, and other recyclable materials and provide for the sale of such items;

7 (38) Special areas of public regulation. To regulate or prohibit junk dealers, pawn shops,  
8 the manufacture, sale, or transportation of intoxicating liquors, and the use of firearms;  
9 to regulate the transportation, storage, and use of combustible, explosive, and  
10 inflammable materials, the use of lighting and heating equipment, and any other business  
11 or situation which may be dangerous to persons or property; to regulate and control the  
12 conduct of peddlers and itinerant traders, theatrical performances, exhibitions, and shows  
13 of any kind, by taxing or otherwise; and to license, tax, regulate, or prohibit professional  
14 fortunetelling, palmistry, adult bookstores, adult entertainment, and massage parlors;

15 (39) Special assessments. To levy and provide for the collection of special assessments  
16 to cover the costs of any public improvement;

17 (40) Taxes (ad valorem). To levy and provide for the assessment, valuation, revaluation,  
18 and collection of taxes on all property subject to taxation; provided, however, that:

19 (A) For all years, the millage rate imposed for ad valorem taxes on real property shall  
20 not exceed 4.731 unless a higher limit is recommended by resolution of the city council  
21 and approved by a majority of the qualified voters of the city; provided, however, that  
22 for the purposes of compliance with Code Section 48-8-91 of the O.C.G.A., the millage  
23 rate may be adjusted upward for the sole purpose of complying with the millage rate  
24 rollback provisions set forth therein;

25 (B) For all years, the fair market value of all property subject to taxation shall be  
26 determined according to the tax digest of Fulton County, as provided in Code Section  
27 48-5-352 of the O.C.G.A.; and

28 (C) For all years, the billing date or dates and due date or dates for municipal ad  
29 valorem taxes shall be the same as for Fulton County ad valorem taxes;

30 (41) Taxes (other). To levy and collect such other taxes as may be allowed now or in the  
31 future by law;

32 (42) Taxicabs. To regulate and license vehicles operated for hire in the city; to limit the  
33 number of such vehicles; to require the operators thereof to be licensed; to require public  
34 liability insurance on such vehicles in the amounts to be prescribed by ordinance; and to  
35 regulate the parking of such vehicles;

(43) Urban redevelopment. To organize and operate an urban redevelopment program; and

(44) Other powers. To exercise and enjoy all other powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, or general welfare of the city and its inhabitants; to exercise all implied powers necessary to carry into execution all powers granted in this charter as fully and completely as if such powers were fully stated in this charter; and to exercise all powers now or in the future authorized to be exercised by other municipal governments under other laws of the State of Georgia; and no listing of particular powers in this charter shall be held to be exclusive of others, nor restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited to municipalities under the Constitution or applicable laws of the State of Georgia.

### **SECTION 1.13.**

#### **Exercise of powers.**

All powers, functions, rights, privileges, and immunities of the city, its officers, agencies, or employees shall be carried into execution as provided by this charter. If this charter makes no provision, such shall be carried into execution as provided by ordinance or as provided by pertinent laws of the State of Georgia.

## **ARTICLE II**

### **GOVERNMENT STRUCTURE, ELECTIONS, AND REMOVAL**

#### **SECTION 2.10.**

##### **City council creation; composition; number; election.**

(a) The legislative authority of the government of this city, except as otherwise specifically provided in this charter, shall be vested in a city council to be composed of a mayor and six councilmembers.

(b) The mayor and councilmembers shall serve for terms of four years and until their respective successors are elected and qualified, except as otherwise provided in subsection (d) of Section 2.11 of this charter. No person shall be eligible to serve as mayor or councilmember unless that person shall have been a resident of the Territory for 12 months immediately preceding the election of mayor or councilmembers, shall have attained the age of 21 years prior to the date of election, and, in the case of councilmembers, has been a



1 resident of the district from which he or she seeks election for six months at the time of  
2 qualifying for election; each such person shall continue to reside within the city and, in the  
3 case of councilmembers, within the district from which he or she was elected during said  
4 period of service and shall be registered and qualified to vote in municipal elections of this  
5 city. The mayor may reside anywhere within the city. No person's name shall be listed as  
6 a candidate on the ballot for election for either mayor or councilmember unless such person  
7 shall file a written notice with the clerk of said city that such person desires his or her name  
8 to be placed on said ballot as a candidate either for mayor or councilmember. No person  
9 shall be eligible for the office of mayor or councilmember unless such person shall file above  
10 said notice within the time provided for in Chapter 2 of Title 21 of the O.C.G.A., the  
11 "Georgia Election Code."

## 12 **SECTION 2.11.**

### 13 Elections.

14 (a) At any election, all persons who are qualified under the Constitution and laws of Georgia  
15 to vote for members of the General Assembly of Georgia and who are bona fide residents of  
16 the Territory or of said city shall be eligible to qualify as voters in the election.

17 (b) All primaries and elections, including without limitation the special election of 2006 to  
18 elect the first mayor and council, shall be held and conducted in accordance with Chapter 2  
19 of Title 21 of the O.C.G.A., the "Georgia Election Code." Except as otherwise provided by  
20 this charter, the city council shall, by ordinance, prescribe such rules and regulations it deems  
21 appropriate to fulfill any options and duties under the "Georgia Election Code."

22 (c) For the purpose of electing members of the council, the City of Milton shall consist of  
23 six council districts as described in Appendix B of this charter, which appendix is attached  
24 and incorporated into this charter by reference. Each candidate for election to the council  
25 other than the mayor must reside in the council district he or she seeks to represent, but such  
26 districts shall be residency districts only and not voting districts. All elections for all  
27 councilmembers shall be at-large by the voters of the entire city.

28 (d) The first election for mayor and councilmembers shall be a special election held in 2006  
29 on the date specified in subsection (f) of this section. At said election, the councilmembers  
30 elected from Council Districts 2, 4, and 6 shall be elected for initial terms of office beginning  
31 immediately after their election and expiring on December 31, 2007. The mayor and  
32 councilmembers elected from Council Districts 1, 3, and 5 shall be elected for initial terms  
33 of office beginning immediately after their election and expiring on December 31, 2009.  
34 Thereafter, at the elections provided for by subsection (f) of this section, their successors

1 shall be elected for terms of four years. All members shall serve until their successors are  
2 elected and qualified.

3 (e) The mayor and each councilmember, for the special election and each subsequent  
4 election for mayor and councilmember, shall be elected by the qualified electors of the city  
5 at large.

6 (f) A special election shall be held on the Tuesday after the first Monday in November,  
7 2006, to elect the first mayor and council as provided in subsection (d) of this section. At  
8 such election, the first mayor and council shall be elected to serve for the initial terms of  
9 office specified in said subsection (d) of this section. Thereafter, the time for holding regular  
10 municipal elections shall be on the Tuesday next following the first Monday in November  
11 of each odd-numbered year beginning in 2007. The successors to the first mayor and  
12 councilmembers and future successors shall be elected at the municipal election immediately  
13 preceding the expiration of the respective terms of office and shall take office on the first day  
14 of January immediately following their election for terms of four years and until their  
15 successors are elected and qualified.

16 (g) All municipal elections shall be nonpartisan and without primaries.

## 17 **SECTION 2.12.**

### 18 Vacancies in office.

19 (a) The office of mayor or councilmember shall become vacant upon the incumbent's death,  
20 resignation, forfeiture of office, or removal from office in any manner authorized by this  
21 charter or the general laws of the State of Georgia.

22 (b) Upon the suspension from office of mayor or councilmember in any manner authorized  
23 by the general laws of the State of Georgia, the city council or those remaining shall appoint  
24 a successor for the duration of the suspension. If the suspension becomes permanent, then  
25 the office shall become vacant and shall be filled as provided in subsection (c) of this section.

26 (c) In the event that the office of mayor or councilmember shall become vacant, the city  
27 council or those remaining shall order a special election to fill the balance of the unexpired  
28 term of such official; provided, however, if such vacancy occurs within six months of the  
29 expiration of the term of that office, the city council or those members remaining shall  
30 appoint a successor for the remainder of the term. In all other respects, the special election  
31 shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., the  
32 "Georgia Election Code," as now or hereafter amended.

## 33 **SECTION 2.13.**

1 Election by majority vote.

2 The candidates for mayor and councilmember who receive a majority of the votes cast in the  
3 applicable election shall be elected to a term of office. In the event no candidate receives a  
4 majority of the votes cast in any of said elections, a run-off election shall be held between  
5 the two candidates receiving the highest number of votes. Such run-off shall be held at the  
6 time specified by state election law, unless such run-off date is postponed by court order.

7 **SECTION 2.14.**

8 Compensation and expenses.

9 The annual salary of the mayor shall be \$23,000.00 and the annual salary for each  
10 councilmember shall be \$13,000.00. Such salary shall be paid from municipal funds in  
11 monthly installments. The city council may provide by ordinance for the provision of  
12 insurance, retirement, workers' compensation, and other employee benefits to the mayor and  
13 members of the city council and shall provide for the reimbursement of expenses actually and  
14 necessarily incurred by the mayor and members of the city council in carrying out their  
15 official duties.

16 **SECTION 2.15.**

17 Prohibitions.

18 (a) No elected official, appointed officer, or employee of the city or any agency or political  
19 entity to which this charter applies shall knowingly:

20 (1) Engage in any business or transaction or have a financial or other personal interest,  
21 direct or indirect, which is incompatible with the proper discharge of official duties or  
22 which would tend to impair the independence of his or her judgment or action in the  
23 performance of official duties;

24 (2) Engage in or accept private employment or render services for private interests when  
25 such employment or service is incompatible with the proper discharge of official duties  
26 or would tend to impair the independence of his or her judgment or action in the  
27 performance of official duties;

28 (3) Disclose confidential information concerning the property, government, or affairs of  
29 the governmental body by which engaged without proper legal authorization or use such  
30 information to advance the financial or other private interest of himself or herself or  
31 others;

(4) Accept any valuable gift, whether in the form of service, loan, object, or promise, from any person, firm, or corporation which to his or her knowledge is interested, directly or indirectly, in any manner whatsoever in business dealings with the governmental body by which he or she is engaged; provided, however, that an elected official who is a candidate for public office may accept campaign contributions and services in connection with any such campaign;

(5) Represent other private interests in any action or proceeding against this city or any portion of its government; or

(6) Vote or otherwise participate in the negotiation or in the making of any contract with any business or entity in which he or she has a financial interest.

(b) Any elected official, appointed officer, or employee who has any private financial interest, directly or indirectly, in any contract or matter pending before or within any department of the city shall disclose such private interest to the city council. The mayor or any councilmember who has a private interest in any matter pending before the city council shall disclose such private interest and such disclosure shall be entered on the records of the city council, and he or she shall disqualify himself or herself from participating in any decision or vote relating thereto. Any elected official, appointed officer, or employee of any agency or political entity to which this charter applies who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within such entity shall disclose such private interest to the governing body of such agency or entity.

(c) No elected official, appointed officer, or employee of the city or any agency or entity to which this charter applies shall use property owned by such governmental entity for personal benefit, convenience, or profit, except in accordance with policies promulgated by the city council or the governing body of such agency or entity.

(d) Any violation of this section which occurs with the knowledge, express or implied, of a party to a contract or sale shall render said contract or sale voidable at the option of the city council.

(e) Except as authorized by law, no member of the council shall hold any other elective city office or other city employment during the term for which elected. The provisions of this subsection shall not apply to any person holding employment on the effective date of this Act.

## **SECTION 2.16.**

Removal of officers.

(a) The mayor, a councilmember, or other appointed officers provided for in this charter shall be removed from office for any one or more of the following causes:

(1) Incompetence, misfeasance, or malfeasance in office;

(2) Conviction of a crime involving moral turpitude;

(3) Failure at any time to possess any qualifications of office as provided by this charter or by law;

(4) Knowingly violating Section 2.15 or any other express prohibition of this charter;

(5) Abandonment of office or neglect to perform the duties thereof; or

(6) Failure for any other cause to perform the duties of office as required by this charter or by state law.

(b) Removal of any officer pursuant to subsection (a) of this section shall be accomplished by one of the following methods:

(1) By the vote of five councilmembers after an investigative hearing. In the event an elected officer is sought to be removed by the action of the city council, such officer shall be entitled to a written notice specifying the ground or grounds for removal and to a public hearing which shall be held not less than ten days after the service of such written notice. Any elected officer sought to be removed from office as provided in this section shall have the right of appeal from the decision of the city council to the Superior Court of Fulton County. Such appeal shall be governed by the same rules as govern appeals to the superior court from the probate court; or

(2) By an order of the Superior Court of Fulton County following a hearing on a complaint seeking such removal brought by any resident of the City of Milton.

### **ARTICLE III**

#### **ORGANIZATION OF GOVERNMENT, GENERAL**

#### **AUTHORITY, AND ORDINANCES**

#### **SECTION 3.10.**

#### **General power and authority.**

(a) Except as otherwise provided by this charter, the city council shall be vested with all the powers of government of this city as provided by Article I of this charter.

(b) In addition to all other powers conferred upon it by law, the city council shall have the authority to adopt and provide for the execution of such ordinances, resolutions, rules, and regulations, not inconsistent with this charter and with the Constitution and the laws of the State of Georgia, which it shall deem necessary, expedient, or helpful for the peace, good order, protection of life and property, health, welfare, sanitation, comfort, convenience,

prosperity, or well-being of the inhabitants of the City of Milton and may enforce such ordinances by imposing penalties for violations thereof.

(c) Except for the office of city manager and the executive aide to the mayor, the city council, by ordinance, may establish, abolish, merge, or consolidate offices, positions of employment, departments, and agencies of the city as it shall deem necessary for the proper administration of the affairs of the government of the city. The council shall prescribe the functions and duties of departments, offices, and agencies; may provide that the same person shall fill any number of offices or positions of employment; and may transfer or change the functions and duties of offices, positions of employment, departments, and agencies of the city.

(d) The operations and responsibilities of each department now or hereafter established in the city shall be distributed among such divisions or bureaus as may be provided by ordinance of the city council. Each department shall consist of such officers, employees, and positions of employment as may be provided by this charter or by ordinance and shall be subject to the general supervision and guidance of the mayor and councilmembers.

(e) In all cases, unless otherwise prohibited by this charter or by state law, those functions and duties necessary for the efficient and proper administration of the affairs of government of the city may be provided through intergovernmental agreements or private contracts or both.

### **SECTION 3.11.**

#### **Organization.**

(a) The city council shall hold an organizational meeting at the first regular meeting in January following an election. The meeting shall be called to order by the mayor-elect and the oath of office shall be administered to the newly elected mayor and councilmembers by a judicial officer authorized to administer the oaths required by Chapter 3 of Title 45 of the O.C.G.A. and the following oath:

"I do solemnly (swear) (affirm) that I will faithfully perform the duties of (mayor) (councilmember) of this city and that I will support and defend the charter thereof as well as the Constitution and laws of the State of Georgia and of the United States of America."

(b) Following the induction of the mayor and councilmembers, the city council, by a majority vote, shall elect a councilmember to serve as mayor pro tempore. The mayor pro tempore shall assume the official duties and powers of the mayor during any disability or absence of the mayor, as set forth in Section 3.30 of this Act. Any such disability or absence shall be declared by a majority vote of the city council.

**SECTION 3.12.**

## Inquiries and investigations.

The city council may make inquiries and investigations into the affairs of the city and the conduct of any department, office, or agency thereof and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the council shall be punished as provided by ordinance.

**SECTION 3.13.**

## Meetings.

- (a) The city council shall, at least once during each calendar month, hold regular meetings at such times and places as prescribed by ordinance. The council may recess any such regular meeting and continue such meeting on any weekday or at any hour it may fix and may transact any business at such continued meeting as may be transacted at any regular meeting.
- (b) Special meetings of the city council may be held on call of the mayor or four members of the city council. Notice of such special meeting shall be served on all other members personally, or by telephone personally, at least 48 hours in advance of the meeting. Such notice to councilmembers shall not be required if the mayor and all councilmembers are present when the special meeting is called. Such notice of any special meeting may be waived by a councilmember in writing before or after such a meeting and attendance at the meeting shall also constitute a waiver of notice on any business transacted in such councilmember's presence. Only the business stated in the call may be transacted at the special meeting.
- (c) All meetings of the city council shall be public to the extent required by law and notice to the public of special meetings shall be given as required by law.

**SECTION 3.14.**

## Procedures.

- (a) The city council shall adopt its rules of procedure and order of business consistent with the provisions of this charter and shall provide for keeping a journal of its proceedings which shall be a public record.
- (b) All committees and committee chairpersons and officers of the city council shall be appointed as prescribed by ordinance or resolution of the city council.

**SECTION 3.15.**

## Voting.

(a) Except as otherwise provided in subsection (c) of this section, four councilmembers shall constitute a quorum and shall be authorized to transact the business of the city council. For voting and quorum purposes, the mayor shall be counted as one of the councilmembers. Voting on the adoption of ordinances shall be by voice vote and the vote shall be recorded in the journal, but any member of the city council shall have the right to request a roll-call vote and such vote shall be recorded in the journal. No councilmember shall abstain from voting except in the case of a conflict of interest or if absent when a motion being voted upon was made. The councilmember shall provide a specific explanation of the conflict, and the explanation shall be recorded in the journal.

(b) Except as otherwise provided in this charter, the affirmative vote of a majority of the councilmembers present shall be required for the adoption of any ordinance, resolution, or motion.

(c) In the event vacancies in office result in less than a quorum of councilmembers holding office, then the remaining councilmembers in office shall constitute a quorum and shall be authorized to transact business of the city council. A vote of a majority of the remaining councilmembers shall be required for the adoption of any ordinance, resolution, or motion.

**SECTION 3.16.**

## Ordinances.

(a) Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain a subject which is not expressed in its title. The enacting clause shall be "The Council of the City of Milton hereby ordains..." and every ordinance shall so begin.

(b) An ordinance may be introduced by the mayor or any councilmember and be read at a regular or special meeting of the city council. Ordinances shall be considered and adopted or rejected by the city council in accordance with the rules which it shall establish; provided, however, an ordinance shall not be adopted the same day it is introduced, except for emergency ordinances provided for in Section 3.18. Upon introduction of any ordinance, the clerk shall, as soon as possible, distribute a copy to the mayor and to each councilmember and shall file a reasonable number of copies in the office of the clerk and at such other public places as the city council may designate.



**SECTION 3.17.**

## Effect of ordinances.

Acts of the city council which have the force and effect of law shall be enacted by ordinance.

**SECTION 3.18.**

## Emergencies.

To meet a public emergency affecting life, health, property, or public peace, the city council may convene on call of the mayor or four councilmembers and may promptly adopt an emergency ordinance, but such ordinance shall not levy taxes; grant, renew, or extend a franchise; regulate the rate charged by any public utility for its services; or authorize the borrowing of money except for loans to be repaid within 30 days. An emergency ordinance shall be introduced in the form prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted, with or without amendment, or rejected at the meeting at which it is introduced, but the affirmative vote of a majority of the councilmembers present shall be required for adoption. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed 30 days following the date upon which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency continues to exist. An emergency ordinance shall also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

**SECTION 3.19.**

## Codes.

(a) The city council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such adopting ordinance shall be as prescribed for ordinances generally except that: (1) the requirements of subsection (b) of Section 3.16 of this charter for distribution and filing of copies of the ordinance shall be construed to include copies of any code of technical regulations, as well as the adopting ordinance; and (2) a copy of each adopted code of technical regulations, as

well as the adopting ordinance, shall be authenticated and recorded by the clerk pursuant to Section 3.20 of this charter.

(b) Copies of any adopted code of technical regulations shall be made available by the clerk for distribution or for purchase at a reasonable price.

### **SECTION 3.20.**

#### **Codification of ordinances.**

(a) The clerk shall authenticate by the clerk's signature and record in full in a properly indexed book kept for that purpose all ordinances adopted by the council.

(b) The city shall provide for the preparation of a general codification of all the ordinances of the city having the force and effect of law. The general codification shall be adopted by the city council by ordinance and shall be published promptly together with all amendments thereto and shall contain such codes of technical regulations and other rules and regulations as the city council may specify. This compilation shall be known and cited officially as "The Code of the City of Milton, Georgia." Copies of the code shall be furnished to all officers, departments, and agencies of the city and shall be made available for purchase by the public at a reasonable price as fixed by the city council.

(c) The city council shall cause each ordinance and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances and charter amendments shall be made available for purchase by the public at reasonable prices to be fixed by the city council. Following publication of the first code under this charter and at all times thereafter, the ordinances and charter amendments shall be printed in substantially the same style as the code then in effect and shall be suitable in form for incorporation within the code. The city council shall make such further arrangements as deemed desirable with reproduction and distribution of any changes in or additions to codes of technical regulations and other rules and regulations included in the code.

### **SECTION 3.21.**

#### **Submission of ordinances to the mayor.**

(a) Every ordinance, resolution, or other action adopted by the city council shall be presented to the mayor for signature within five business days following the adoption of such ordinance, resolution, or other action by the city council. The mayor shall have the right to veto any ordinance adopted by city council, in accordance with the procedure set forth in this section.

(b) The mayor, within ten business days following receipt of an ordinance, shall return it to the city clerk with or without the mayor's approval or with the mayor's veto. If an ordinance has been approved by the mayor or if it is returned to the city clerk neither approved nor disapproved, it shall become law upon its return to the clerk. However, if the mayor fails to return an ordinance to the city clerk within ten business days of receipt, it shall become law at 12:00 Midnight on the tenth business day after receipt. If the ordinance is vetoed by the mayor, the mayor shall submit to city council, through the city clerk, the reasons for the mayor's veto. The city clerk shall record upon the ordinance the date of its delivery to and its receipt from the mayor.

(c) An ordinance vetoed by the mayor shall automatically be on the agenda at the next regular meeting of the city council for reconsideration. If the minimum number of councilmembers necessary to vote to override the veto are not present, the action may be continued until the next meeting at which such minimum number of councilmembers are present. The city council may override a veto by the mayor and adopt any ordinance that has been vetoed by the mayor by the affirmative votes of at least four councilmembers, not including the mayor.

(d) In addition, the mayor may disapprove or reduce any item or items of appropriation in any ordinance or resolution. The approved part or parts of any ordinance or resolution making appropriations shall become law, and the part or parts disapproved or reduced shall not become law unless subsequently passed by the city council over the mayor's veto as provided herein. The disapproved or reduced part or parts of any such ordinance or resolution shall be presented to the city council as though disapproved and shall not become law unless overridden by the city council as set forth in subsection (c) of this section.

### **SECTION 3.22.**

#### **Powers and duties of mayor.**

(a) The mayor shall be the chief executive officer of the city government, a member of and the presiding officer of the city council, and responsible for the efficient and orderly administration of the city's affairs. The mayor shall be responsible for the enforcement of laws, rules, regulations, ordinances, and franchises in the city. The mayor may conduct inquiries and investigations into the conduct of the city's affairs and shall have such powers and duties as specified in this charter or as may be provided by ordinance consistent with this charter.

(b) The mayor shall:

- (1) Preside at all meetings of the city council and participate therein as a voting member of the city council;
- (2) Be the head of the city for the purpose of service of process and for ceremonial purposes and be the official spokesperson for the city and the chief advocate of policy;
- (3) Have power to administer oaths and to take affidavits;
- (4) Sign as a matter of course on behalf of the city all written and approved contracts, ordinances, resolutions, and other instruments executed by the city which by law are required to be in writing;
- (5) See that all laws and ordinances of the city are faithfully executed;
- (6) Vote on any motion, resolution, ordinance, or other question before the council other than a veto override;
- (7) Obtain short-term loans in the name of the city when authorized by the city council to do so;
- (8) Appoint city council committees and appoint councilmembers to oversee and report on the functions of the various departments of the city;
- (9) Require the city manager to meet with him or her at a time and place designated for consultation and advice upon the affairs of the city;
- (10) Nominate the city manager, city attorney, chief judge of municipal court, city clerk, and city treasurer, subject to ratification by the city council;
- (11) Select and hire the executive aide;
- (12) Prepare or have prepared an agenda for each meeting of the city council which shall include all business submitted by the mayor, any councilmember, the city manager, and the city attorney; and
- (13) Fulfill and perform such other duties as are imposed by this charter and duly adopted ordinances.

### **SECTION 3.23.**

City manager; appointment;  
qualifications; compensation; removal.

- (a) The mayor shall appoint, subject to confirmation by the city council, a city manager for an indefinite term and which appointment shall set the city manager's initial compensation. The city manager shall be appointed solely on the basis of that person's executive and administrative qualifications.
- (b) The mayor or a councilmember may recommend the removal of the city manager from office in accordance with the following procedures:

(1) In response to such recommendation, the city council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the city manager from duty for a period not to exceed 45 days.

A copy of the resolution shall be delivered promptly to the city manager;

(2) Within ten days after a copy of the resolution is delivered to the city manager, that person may file with the city council a written request for a public hearing. This hearing shall be held within 30 days after the request is filed. The city manager may file with the city council a written reply not later than five days before the hearing; and

(3) If the city manager has not requested a public hearing within the time specified in paragraph (2) of this subsection, the city council may adopt a final resolution for removal, which may be made effective immediately, by an affirmative vote of a majority of all its members. If the city manager has requested a public hearing, the city council may adopt a final resolution for removal, which may be made effective immediately, by an affirmative vote of a majority of all its members at any time after the public hearing.

(c) The city manager shall continue to receive the city manager's salary until the effective date of a final resolution of removal.

#### **SECTION 3.24.**

Acting city manager.

By letter filed with the city clerk, the city manager shall designate or in the absence of the city manager the mayor shall designate, subject to approval of the city council, a qualified city administrative officer to exercise the powers and perform the duties of city manager during the city manager's temporary absence or physical or mental disability. During such absence or disability, the city council may revoke such designation at any time and appoint another officer of the city to serve until the city manager shall return or the city manager's disability shall cease.

#### **SECTION 3.25.**

Powers and duties of the city manager.

The city manager shall be the chief administrative officer of the city. The city manager shall be responsible to the city council for the administration of all city affairs placed in the city manager's charge by or under this charter. As the chief administrative officer, the city manager shall:

(1) Have the authority to hire persons to act as department heads and fill other positions designated by ordinance or resolution and appoint and, when the city manager deems it necessary for the good of the city, suspend or remove all city employees and administrative officers the city manager hires or appoints, except as otherwise provided by law or personnel ordinances adopted pursuant to this charter. The city manager may authorize any administrative officer who is subject to the city manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency;

(2) Direct and supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this charter or by law;

(3) Attend all city council meetings, except for closed meetings held for the purposes of deliberating on the appointment, discipline, or removal of the city manager, and have the right to take part in discussion, but the city manager may not vote;

(4) See that all laws, provisions of this charter, and acts of the city council, subject to enforcement by the city manager or by officers subject to the city manager's direction and supervision, are faithfully executed;

(5) Prepare and submit the annual operating budget and capital budget to the city council;

(6) Submit to the city council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;

(7) Make such other reports as the city council or mayor may require concerning the operations of those city departments, offices, and agencies that are subject to the city manager's direction and supervision;

(8) Keep the city council fully advised as to the financial condition and future needs of the city, and make such recommendations to the city council concerning the affairs of the city as the city manager deems desirable; and

(9) Perform other such duties as are specified in this charter or as may be required by the city council.

### **SECTION 3.26.**

Executive aide; appointment; qualifications; compensation; removal.

(a) The mayor shall appoint an executive aide for an indefinite term and shall set the executive aide's initial annual salary, subject to confirmation by the city council, which annual salary shall be not less than twice the annual salary of the mayor. The executive aide shall be appointed solely on the basis of that person's executive and administrative qualifications.

(b) The executive aide may be removed from office at the discretion of the mayor.

(c) The executive aide shall continue to receive the executive aide's salary until the effective date of removal.

#### **SECTION 3.27.**

##### **Powers and duties of the executive aide.**

(a) The executive aide shall report directly to the mayor.

(b) The duties and responsibilities of the executive aide shall at all times be as set forth by the mayor.

(c) The executive aide shall have the authority, upon the specific request of the mayor, to act on behalf of the mayor in the mayor's ceremonial or administrative capacity.

(d) The executive aide shall have no authority to act on behalf of the mayor in a legislative or executive capacity.

#### **SECTION 3.28.**

##### **Council's interference with administration.**

Except for the purpose of inquiries and investigations under Section 3.12 of this charter, the city council or its members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the city council nor its members shall give orders to any such officer or employee, either publicly or privately.

#### **SECTION 3.29.**

##### **Selection of mayor pro tempore.**

There shall be a mayor pro tempore elected from among the councilmembers by the city council. The initial mayor pro tempore shall serve for a term expiring December 31, 2007, and successors shall serve for terms of four years. The mayor pro tempore shall continue to vote and otherwise participate as a councilmember. A vacancy in the position of mayor pro tempore resulting from the mayor pro tempore ceasing to serve as a councilmember or from any other cause shall be filled for the remainder of the unexpired term in the same manner as the original election.

#### **SECTION 3.30.**

Mayor pro tempore.

During the absence or physical or mental disability of the mayor for any cause, the mayor pro tempore of the city council, or in such person's absence or disability for any reason, any one of the councilmembers chosen by a majority vote of the city council, shall be clothed with all the rights and privileges of the mayor and shall perform the official duties of the office of the mayor so long as such absence or disability shall continue, except that the mayor pro tempore shall not have the mayor's veto power except in the case of physical or mental disability of the mayor. A councilmember acting as mayor shall have only one vote. Any such absence or disability shall be declared by majority vote of all councilmembers. The mayor pro tempore or selected councilmember shall sign all contracts and ordinances in which the mayor has a disqualifying financial interest.

#### ARTICLE IV

#### ADMINISTRATIVE AFFAIRS

#### SECTION 4.10.

Department heads.

(a) Except as otherwise provided in this charter, the city council by ordinance shall prescribe the functions or duties and establish, abolish, or alter all nonelective offices, positions of employment, departments, and agencies of the city as necessary for the proper administration of the affairs and government of this city.

(b) Except as otherwise provided by this charter or by law, the directors of departments and other officers of the city shall be appointed solely on the basis of their respective administrative and professional qualifications.

(c) All appointed officers and directors of departments shall receive such compensation as prescribed by the city council.

(d) There shall be a director of each department or agency who shall be its principal officer. Each director shall, subject to the direction and supervision of the city manager, be responsible for the administration and direction of the affairs and operations of the director's department or agency.

(e) The city manager may suspend directors. The director involved may appeal to the city council which, after a hearing, may override the suspension. Any removal of a director shall be by the city council.

#### SECTION 4.11.



Boards.

(a) The city council shall create by ordinance such boards, commissions, and authorities to fulfill any investigative, quasi-judicial, or quasi-legislative function the city council deems necessary and shall by ordinance establish the composition, period of existence, duties, and powers thereof.

(b) All members of boards, commissions, and authorities of the city shall be appointed by a majority vote of the city council for such terms of office and in such manner as shall be provided by ordinance, except where other appointing authority, terms of office, or manner of appointment is prescribed by this charter or by law.

(c) The city council, by ordinance, may provide for the compensation and reimbursement for actual and necessary expenses of the members of any board, commission, or authority.

(d) Except as otherwise provided by charter or by law, no member of any board, commission, or authority shall hold any elective office in the city.

(e) Any vacancy on a board, commission, or authority of the city shall be filled for the unexpired term in the manner prescribed for the original appointment, except as otherwise provided by this charter or by law.

(f) No member of a board, commission, or authority shall assume office until he or she has executed and filed with the clerk of the city an oath obligating himself or herself to perform faithfully and impartially the duties of the office, such oath to be prescribed by ordinance and administered by the mayor.

(g) Any member of a board, commission, or authority may be removed from office for cause by a vote of the city council.

(h) Except as otherwise provided by this charter or by law, each board, commission, or authority of the city shall elect one of its members as chairperson and one member as vice-chairperson, and may elect as its secretary one of its members or may appoint as secretary an employee of the city. Each board, commission, or authority of the city government may establish such bylaws, rules, and regulations, not inconsistent with this charter, an ordinance of the city, or law, as it deems appropriate and necessary for the fulfillment of its duties or the conduct of its affairs. Copies of such bylaws, rules, and regulations shall be filed with the clerk of the city.

**SECTION 4.12.**

City attorney.

1 The mayor shall nominate and the city council shall confirm by a majority vote a city attorney  
2 who shall be a member of the State Bar of Georgia and shall have actively practiced law for  
3 at least one year. The city attorney shall serve at the pleasure of the city council. The city  
4 attorney shall be responsible for representing and defending the city in all litigation in which  
5 the city is a party, may be the prosecuting officer in the municipal court, shall attend the  
6 meetings of the council as directed, shall advise the city council, mayor, and other officers  
7 and employees of the city concerning legal aspects of the city's affairs, and shall perform  
8 such other duties as may be required by virtue of the position of city attorney. The city  
9 council shall provide for the compensation of the city attorney.

10 **SECTION 4.13.**

11 City clerk.

12 The mayor shall nominate and the city council shall confirm by a majority vote a city clerk  
13 who shall not be a councilmember. The city clerk shall be custodian of the official city seal,  
14 maintain city council records required by this charter, and perform such other duties as may  
15 be required by the city council. The city council shall provide for the compensation of the  
16 city clerk.

17 **SECTION 4.14.**

18 Treasurer.

19 The mayor shall nominate and the city council shall confirm by a majority vote a city  
20 treasurer to collect all taxes, licenses, fees, and other moneys belonging to the city subject  
21 to the provisions of this charter and the ordinances of the city and to enforce all laws of  
22 Georgia relating to the collection of delinquent taxes and sale or foreclosure for nonpayment  
23 of taxes to the city. The city treasurer shall also be responsible for the general duties of a  
24 treasurer and fiscal officer. The city council shall provide for the compensation of the  
25 treasurer.

26 **SECTION 4.15.**

27 Rules and regulations.

28 The city council shall adopt rules and regulations consistent with this charter concerning:

- 29 (1) The method of employee selection and probationary periods of employment;

(2) The administration of a position classification and pay plan, methods of promotion and applications of service ratings thereto, and transfer of employees within the classification plan;

(3) Hours of work, vacation, sick leave, and other leaves of absence, overtime pay, and the order and manner in which layoffs shall be effected;

(4) Such dismissal hearings as due process may require; and

(5) Such other personnel notices as may be necessary to provide for adequate and systematic handling of personnel affairs.

## **ARTICLE V**

### **JUDICIAL BRANCH**

#### **SECTION 5.10.**

Municipal court.

There shall be a court to be known as the Municipal Court of the City of Milton.

#### **SECTION 5.11.**

Judges.

(a) The municipal court shall be presided over by a chief judge and such part-time, full-time, or stand-by judges as shall be provided by ordinance. The chief judge shall be nominated by the mayor and shall be confirmed by resolution of the city council and the method of selection and terms of any other judges shall be provided by ordinance.

(b) No person shall be qualified or eligible to serve as a judge on the municipal court unless that person shall have attained the age of 21 years and shall have been a member of the State Bar of Georgia for a minimum of three years.

(c) Compensation of the chief judge and other judges shall be fixed by the city council. The position of chief judge shall not be a full-time position, and the person serving as chief judge may engage in the private practice of law.

(d) The chief judge shall serve a term of four years, coincident with the term of the mayor, but may be removed for cause by a vote of five members of the city council or upon action taken by the Judicial Qualification Commission.

(e) Before assuming office, each judge shall take an oath, given by the mayor, that the judge will honestly and faithfully discharge the duties of the office to the best of his or her ability and without fear, favor, or partiality. The oath shall be entered upon the minutes of the city council journal required in Section 3.14 of this charter.

**SECTION 5.12.**

## Convening of court.

The municipal court shall be convened at regular intervals as provided by ordinance.

**SECTION 5.13.**

## Powers.

(a) The municipal court shall try and punish violations of this charter, all city ordinances, and such other violations as provided by law.

(b) The municipal court shall have the authority to punish those in its presence for contempt, provided that such punishment shall not exceed the statutory limits for fines and imprisonment for such municipal court.

(c) The municipal court may fix punishment for offenses within its jurisdiction, including both fines and imprisonment or alternative sentencing, provided that such fines or imprisonment does not exceed the statutory limits as now exist or hereafter provided by law.

(d) The municipal court shall have the authority to establish a schedule of fees to defray the cost of operation and shall be entitled to reimbursement of the actual cost of meals, transportation, and caretaking of prisoners bound over to superior courts for violation of state law.

(e) The municipal court shall have authority to establish bail and recognizances to ensure the presence of those charged with violations before said court and shall have discretionary authority to accept cash or personal or real property as surety bond for the appearance of persons charged with violations. Whenever any person shall give bail for appearance and shall fail to appear at the time fixed for trial, the bond shall be forfeited by the judge presiding at such time and an execution shall be issued thereon by serving the defendant and his or her sureties with a rule nisi at least two days before a hearing on the rule nisi.

(f) The municipal court shall have the same authority as superior courts to compel the production of evidence in the possession of any party; to enforce obedience to its orders, judgments, and sentences; and to administer such oaths as are necessary.

(g) The municipal court shall have the authority to bind prisoners over to the appropriate court when it appears by probable cause that state law has been violated.

(h) Each judge of the municipal court may compel the presence of all parties necessary to a proper disposal of each case by the issuance of summonses, subpoenas, and warrants which may be served as executed by any officer as authorized by this charter or by law.

(i) Each judge of the municipal court shall be authorized to issue warrants for the arrest of persons charged with offenses against any ordinance of the city, and each judge of the municipal court shall have the same authority as a magistrate of the state to issue warrants for offenses against state laws committed within the city.

(j) The municipal court is specifically vested with all the jurisdiction and powers throughout the geographic area of this city granted by law to municipal courts and particularly by such laws as authorize the abatement of nuisances and prosecution of traffic violations.

#### **SECTION 5.14.**

##### **Certiorari.**

The right of certiorari from the decision and judgment of the municipal court shall exist in all criminal cases and ordinance violation cases, and such certiorari shall be obtained under the sanction of a judge of the Superior Court of Fulton County, under the laws of the State of Georgia regulating the granting and issuance of writs of certiorari.

#### **SECTION 5.15.**

##### **Rules.**

With the approval of the city council, the judge shall have full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court; provided, however, that the city council may adopt in part or in toto the rules and regulations applicable to superior courts. The rules and regulations made or adopted shall be filed with the city clerk, shall be available for public inspection, and, upon request, shall be furnished to all defendants in municipal court proceedings at least 48 hours prior to said proceedings.

### **ARTICLE VI**

#### **FINANCE**

#### **SECTION 6.10.**

##### **Property tax.**

The city council may assess, levy, and collect an ad valorem tax on all real and personal property within the corporate limits of the city that is subject to such taxation by the state and county. This tax is for the purpose of raising revenues to defray the costs of operating the city government, of providing governmental services, for the repayment of principal and interest

on general obligations, and for any other public purpose as determined by the city council in its discretion.

### **SECTION 6.11.**

#### **Millage.**

(a) The city council by ordinance shall establish a millage rate for the city property tax, a due date, and the time period within which these taxes must be paid. The city council by ordinance may provide for the payment of these taxes by installments or in one lump sum, as well as authorize the voluntary payment of taxes prior to the time when due.

(b) For all years, the millage rate imposed for ad valorem taxes on real property shall not exceed 4.731, unless a higher millage rate is recommended by resolution of the city council and subsequently approved by a majority of the eligible voters of the city by referendum. This millage rate limit shall apply to the millage rate actually levied and shall not apply to the hypothetical millage rate computed under subsection (a) of Code Section 48-8-91 of the O.C.G.A., relating to conditions on imposition of the joint county and municipal sales tax.

### **SECTION 6.12.**

#### **Occupation taxes and business license fees.**

The city council by ordinance shall have the power to levy such occupation or business taxes as are not denied by law. Such taxes may be levied on both individuals and corporations who transact business in this city or who practice or offer to practice any profession or calling within the city to the extent such persons have a constitutionally sufficient nexus to this city to be so taxed. The city council may classify businesses, occupations, professions, or callings for the purpose of such taxation in any way which may be lawful and may compel the payment of such taxes as provided in Section 6.18 of this charter.

### **SECTION 6.13.**

#### **Licenses.**

The city council by ordinance shall have the power to require any individual or corporation who transacts business in this city or who practices or offers to practice any profession or calling within the city to obtain a license or permit for such activity from the city and pay a reasonable fee for such license or permit where such activities are not now regulated by general law in such a way as to preclude city regulations. Such fees may reflect the total cost

1 to the city of regulating the activity and, if unpaid, shall be collected as provided in Section  
2 6.18 of this charter. The city council by ordinance may establish reasonable requirements  
3 for obtaining or keeping such licenses as the public health, safety, and welfare necessitate.

#### 4 **SECTION 6.14.**

##### 5 Franchises.

6 The city council shall have the power to grant franchises for the use of this city's streets and  
7 alleys for the purposes of railroads, street railways, telephone companies, electric companies,  
8 cable television companies, gas companies, transportation companies, and other similar  
9 organizations. The city council shall determine the duration, terms, whether the same shall  
10 be exclusive or nonexclusive, and the consideration for such franchises; provided, however,  
11 that no franchise shall be granted for a period in excess of 35 years and no franchise shall be  
12 granted unless the city receives just and adequate compensation therefor. The city council  
13 shall provide for the registration of all franchises with the city clerk in a registration book  
14 kept by the clerk. The city council may provide by ordinance for the registration within a  
15 reasonable time of all franchises previously granted.

#### 16 **SECTION 6.15.**

##### 17 Sewer fees.

18 The city council by ordinance shall have the power to assess and collect fees, charges, and  
19 tolls for sewers, sanitary and health services, or any other services provided or made  
20 available inside or outside the corporate limits of the city for the total cost to the city of  
21 providing or making available such services. If unpaid, such charges shall be collected as  
22 provided in Section 6.18 of this charter.

#### 23 **SECTION 6.16.**

##### 24 Roads.

25 The city council by ordinance shall have the power to assess, charge, and collect the costs of  
26 constructing, reconstructing, widening, or improving any public way, street, sidewalk,  
27 curbing, gutters, sewers, or other utility mains and appurtenances from the abutting property  
28 owners under such terms and conditions as are reasonable. If unpaid, such charges shall be  
29 collected as provided in Section 6.18 of this charter.

**SECTION 6.17.**

Other taxes.

This city shall be empowered to levy any other tax allowed now or hereafter by law, and the specific mention of any right, power, or authority in this article shall not be construed as limiting in any way the general powers of this city to govern its local affairs.

**SECTION 6.18.**

Collection of delinquent taxes.

The city council by ordinance may provide generally for the collection of delinquent taxes, fees, or other revenue due the city under Sections 6.10 through 6.17 of this charter by whatever reasonable means as are not precluded by law. This shall include providing for the dates when the taxes or fees are due, late penalties or interest, issuance and execution of fi. fas., creation and priority of liens, making delinquent taxes and fees personal debts of the persons required to pay the taxes or fees imposed, revoking city licenses for failure to pay any city taxes or fees, and providing for the assignment or transfer of tax executions.

**SECTION 6.19.**

Borrowing.

The city council shall have the power to issue bonds for the purpose of raising revenue to carry out any project, program, or venture authorized under this charter or the laws of the state. Such bonding authority shall be exercised in accordance with the laws governing bond issuance by municipalities in effect at the time said issue is undertaken.

**SECTION 6.20.**

Revenue bonds.

Revenue bonds may be issued by the city council as state law now or hereafter provides. Such bonds are to be paid out of any revenue produced by the project, program, or venture for which they were issued.

**SECTION 6.21.**

Loans.



1 The city may obtain short-term loans and must repay such loans not later than December 31  
2 of each year, unless otherwise provided by law.

3 **SECTION 6.22.**

4 Accounting and budgeting.

5 The city council shall set the fiscal year by ordinance. This fiscal year shall constitute the  
6 budget year and the year for financial accounting and reporting of each and every office,  
7 department, agency, and activity of the city government.

8 **SECTION 6.23.**

9 Budget ordinance.

10 The city council shall provide an ordinance on the procedures and requirements for the  
11 preparation and execution of an annual operating budget, a capital improvement program,  
12 and a capital budget, including requirements as to the scope, content, and form of such  
13 budgets and programs. The city council shall comply with the provisions of Chapter 81 of  
14 Title 36 of the O.C.G.A.

15 **SECTION 6.24.**

16 Operating budget.

17 On or before a date fixed by the city council but not later than 60 days prior to the beginning  
18 of each fiscal year, the city manager shall submit to the city council a proposed operating  
19 budget for the ensuing fiscal year. The budget shall be accompanied by a message from the  
20 city manager containing a statement of the general fiscal policies of the city, the important  
21 features of the budget, explanations of major changes recommended for the next fiscal year,  
22 a general summary of the budget, and such other comments and information as the city  
23 manager may deem pertinent. The operating budget, the capital improvements budget, the  
24 budget message, and all supporting documents shall be filed in the office of the city clerk and  
25 shall be open to public inspection.

26 **SECTION 6.25.**

27 Adoption.

(a) The city council may amend the operating budget proposed by the city manager, except that the budget as finally amended and adopted must provide for all expenditures required by state law or by other provisions of this charter and for all debt service requirements for the ensuing fiscal year. The total appropriations from any fund shall not exceed the estimated fund balance, reserves, and revenues.

(b) After the conducting of a budget hearing, the city council shall adopt the final operating budget for the ensuing fiscal year on or before a date fixed by ordinance of the council. If the city council fails to adopt the budget by said date, the amounts appropriated for operation for the then current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items prorated accordingly, until such time as the city council adopts a budget for the ensuing fiscal year. Adoption of the budget shall take the form of an appropriations ordinance setting out the estimated revenues in detail by sources and making appropriations according to fund and by organizational unit, purpose, or activity as set out in the budget preparation ordinance adopted pursuant to Section 6.23 of this charter.

(c) The amount set out in the adopted operating budget for each organizational unit shall constitute the annual appropriation for such, and no expenditure shall be made or encumbrance created in excess of the otherwise unencumbered balance of the appropriations or allotments thereof to which it is chargeable.

#### **SECTION 6.26.**

##### **Levy of taxes.**

Following adoption of the operating budget, the city council shall levy by ordinance such taxes as are necessary. The taxes and tax rates set by such ordinance shall be such that reasonable estimates of revenues from such levy shall at least be sufficient, together with other anticipated revenues, fund balances, and applicable reserves, to equal the total amount appropriated for each of the several funds set forth in the annual operating budget for defraying the expense of the general government of this city.

#### **SECTION 6.27.**

##### **Changes in budget.**

The city council by majority vote may make changes in the appropriations contained in the current operating budget at any regular meeting or special or emergency meeting called for such purposes.

**SECTION 6.28.**

## Capital improvements.

(a) On or before the date fixed by the city council, but not later than 60 days prior to the beginning of each fiscal year, the city manager shall submit to the city council a proposed capital improvements budget with any recommendations as to the means of financing the improvements proposed for the ensuing year. The city council shall have the power to accept, with or without amendments, or reject the proposed program and proposed means of financing. The city council shall not authorize an expenditure for the construction of any building, structure, work, or improvement, unless the appropriations for such project are included in the capital improvements budget, except to meet a public emergency as provided in Section 3.17 of this charter.

(b) After the conducting of a public hearing, the city council shall adopt by ordinance the final capital improvements budget for the ensuing fiscal year on or before a date fixed by ordinance of the council. No appropriations provided for in a prior capital improvements budget shall lapse until the purpose for which the appropriations were made shall have been accomplished or abandoned; provided, however, the mayor may submit amendments to the capital improvements budget at any time during the fiscal year, accompanied by any recommendations. Any such amendments to the capital improvements budget shall become effective only upon adoption by majority vote of the city council.

**SECTION 6.29.**

## Audits.

There shall be an annual independent audit of all city accounts, funds, and financial transactions by a certified public accountant selected by the city council. The audit shall be conducted according to generally accepted accounting principles. Any audit of any funds by the state or federal government may be accepted as satisfying the requirements of this charter. Copies of all audit reports shall be available at printing costs to the public.

**SECTION 6.30.**

## Procurement and property management.

No contract with the city shall be binding on the city unless:

- (1) It is in writing;

(2) It is drawn or submitted and reviewed by the city attorney and, as a matter of course, is signed by the city attorney to indicate such drafting or review; and

(3) It is made or authorized by the city council and such approval is entered in the city council journal of proceedings pursuant to Section 3.14 of this charter.

#### **SECTION 6.31.**

##### **Purchasing.**

The city council shall by ordinance prescribe procedures for a system of centralized purchasing for the city.

#### **SECTION 6.32.**

##### **Sale of property.**

(a) The city council may sell and convey any real or personal property owned or held by the city for governmental or other purposes as now or hereafter provided by law, as well as any abandoned or surplus property.

(b) The city council may quitclaim any rights it may have in property not needed for public purposes upon request by the mayor and adoption of a resolution, both finding that the property is not needed for public or other purposes and that the interest of the city has no readily ascertainable monetary value.

(c) Whenever in opening, extending, or widening any street, avenue, alley, or public place of the city a small parcel or tract of land is cut off or separated by such work from a larger tract or boundary of land owned by the city, the city council may authorize the mayor to execute and deliver in the name of the city a deed conveying said cut-off or separated parcel or tract of land to an abutting or adjoining property owner or owners in exchange for rights of way of said street, avenue, alley, or public place when such exchange is deemed to be in the best interest of the city. All deeds and conveyances heretofore and hereafter so executed and delivered shall convey all title and interest the city has in such property, notwithstanding the fact that no public sale after advertisement was or is hereafter made.

#### **SECTION 6.33.**

##### **General homestead exemption.**

(a) As used in this section, the term:

(1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Milton, except for any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

(2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.

(b) Each resident of the City of Milton is granted an exemption on that person's homestead from City of Milton ad valorem taxes for municipal purposes in the amount of \$15,000.00 of the assessed value of that homestead. The value of that property in excess of such exempted amount shall remain subject to taxation.

(c) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or person's agent files an application with the governing authority of the City of Milton, or the designee thereof, giving such information relative to receiving such exemption as will enable the governing authority of the City of Milton, or the designee thereof, to make a determination regarding the initial and continuing eligibility of such owner for such exemption. The governing authority of the City of Milton, or the designee thereof, shall provide application forms for this purpose.

(d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year so long as the owner occupies the residence as a homestead. After a person has filed the proper application, as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the governing authority of the City of Milton, or the designee thereof, in the event that person for any reason becomes ineligible for that exemption.

(e) The exemption granted by subsection (b) of this section shall not apply to or affect state ad valorem taxes, county ad valorem taxes for county purposes, or county or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to municipal ad valorem taxes for municipal purposes.

(f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning on or after January 1, 2007.

#### **SECTION 6.34.**

General homestead exemption for citizens age 65 or over.

1 (a) As used in this section, the term:

2 (1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal  
3 purposes levied by, for, or on behalf of the City of Milton except for any ad valorem taxes  
4 to pay interest on and to retire municipal bonded indebtedness.

5 (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of  
6 the O.C.G.A., as amended.

7 (3) "Senior citizen" means a person who is 65 years of age or over on or before January  
8 1 of the year in which application for the exemption under subsection (b) of this section  
9 is made.

10 (b) Each resident of the City of Milton who is a senior citizen is granted an exemption on  
11 that person's homestead from City of Milton ad valorem taxes for municipal purposes in the  
12 amount of \$15,000.00 of the assessed value of that homestead. The value of that property  
13 in excess of such exempted amount shall remain subject to taxation.

14 (c) A person shall not receive the homestead exemption granted by subsection (b) of this  
15 section unless the person or person's agent files an application with the governing authority  
16 of the City of Milton, or the designee thereof, giving the person's age and such additional  
17 information relative to receiving such exemption as will enable the governing authority of  
18 the City of Milton, or the designee thereof, to make a determination regarding the initial and  
19 continuing eligibility of such owner for such exemption. The governing authority of the City  
20 of Milton, or the designee thereof, shall provide application forms for this purpose.

21 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of  
22 the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year  
23 so long as the owner occupies the residence as a homestead. After a person has filed the  
24 proper application, as provided in subsection (c) of this section, it shall not be necessary to  
25 make application thereafter for any year and the exemption shall continue to be allowed to  
26 such person. It shall be the duty of any person granted the homestead exemption under  
27 subsection (b) of this section to notify the governing authority of the City of Milton, or the  
28 designee thereof, in the event that person for any reason becomes ineligible for that  
29 exemption.

30 (e) The exemption granted by subsection (b) of this section shall not apply to or affect state  
31 ad valorem taxes, county ad valorem taxes for county purposes, or county or independent  
32 school district ad valorem taxes for educational purposes. The homestead exemption granted  
33 by subsection (b) of this section shall be in addition to and not in lieu of any other homestead  
34 exemption applicable to municipal ad valorem taxes for municipal purposes.

35 (f) The exemption granted by subsection (b) of this section shall apply to all taxable years  
36 beginning on or after January 1, 2007.

**SECTION 6.35.**

Homestead exemption for citizens age 65 or over  
meeting certain income requirements.

(a) As used in this section, the term:

(1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Milton, including, but not limited to, any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

(2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.

(3) "Income" means adjusted gross income as such term is defined in the Internal Revenue Code of 1986, as such code is defined in Code Section 48-1-2 of the O.C.G.A., except that for purposes of this section the term shall include only that portion of income or benefits received as retirement, survivor, or disability benefits under the federal Social Security Act or under any other public or private retirement, disability, or pension system which exceeds the maximum amount which may be received by an individual and an individual's spouse under the federal Social Security Act.

(4) "Senior citizen" means a person who is 65 years of age or over on or before January 1 of the year in which application for the exemption under subsection (b) of this section is made.

(b) Each resident of the City of Milton who is a senior citizen is granted an exemption on that person's homestead from City of Milton ad valorem taxes for municipal purposes in the amount of \$10,000.00 of the assessed value of that homestead. The exemption granted by this subsection shall only be granted if that person's income, together with the income of the spouse who also occupies and resides at such homestead does not exceed the maximum amount which may be received by an individual and an individual's spouse under the federal Social Security Act for the immediately preceding year. The value of that property in excess of such exempted amount shall remain subject to taxation.

(c) A person shall not receive the homestead exemption granted by subsection (b) of this section unless the person or person's agent files an application with the governing authority of the City of Milton, or the designee thereof, giving the person's age, income, and such additional information relative to receiving such exemption as will enable the governing authority of the City of Milton, or the designee thereof, to make a determination regarding the initial and continuing eligibility of such owner for such exemption. The governing authority of the City of Milton, or the designee thereof, shall provide application forms for this purpose.

(d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year so long as the owner occupies the residence as a homestead. After a person has filed the proper application, as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the governing authority of the City of Milton, or the designee thereof, in the event that person for any reason becomes ineligible for that exemption.

(e) The exemption granted by subsection (b) of this section shall not apply to or affect state ad valorem taxes, county ad valorem taxes for county purposes, or county or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to municipal ad valorem taxes for municipal purposes.

(f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning on or after January 1, 2007.

#### **SECTION 6.36.**

Homestead exemption for citizens age 70 or over  
and disabled persons meeting certain income requirements.

(a) As used in this section, the term:

(1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal purposes levied by, for, or on behalf of the City of Milton, including, but not limited to, any ad valorem taxes to pay interest on and to retire municipal bonded indebtedness.

(2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of the O.C.G.A., as amended.

(3) "Income" means adjusted gross income determined pursuant to the Internal Revenue Code of 1986, as amended, for federal income tax purposes, except that for the purposes of this section the term shall include only that portion of income or benefits received as retirement, survivor, or disability benefits under the federal Social Security Act or under any other public or private retirement, disability, or pension system which exceeds the maximum amount which may be received by an individual and an individual's spouse under the federal Social Security Act.



1 (4) "Senior citizen" means a person who is 70 years of age or over on or before January  
2 1 of the year in which application for the exemption under subsection (b) of this section  
3 is made.

4 (b) Each resident of the City of Milton who is a senior citizen or who is disabled is granted  
5 an exemption on that person's homestead from City of Milton ad valorem taxes for municipal  
6 purposes for the full value of that homestead. The exemption granted by this subsection shall  
7 only be granted if that person's income, together with the income of the spouse who also  
8 occupies and resides at such homestead does not exceed the maximum amount which may  
9 be received by an individual and an individual's spouse under the federal Social Security Act  
10 for the immediately preceding year.

11 (c)(1) In order to qualify for the exemption provided for in subsection (b) of this section  
12 as being disabled, the person claiming such exemption shall be required to obtain a  
13 certificate from not more than three physicians licensed to practice medicine under  
14 Chapter 34 of Title 43 of the O.C.G.A., as amended, certifying that in the opinion of such  
15 physician or physicians such person is mentally or physically incapacitated to the extent  
16 that such person is unable to be gainfully employed and that such incapacity is likely to  
17 be permanent. Such certificate or certificates shall constitute part of and be submitted  
18 with the application provided for in paragraph (2) of this subsection.

19 (2) A person shall not receive the homestead exemption granted by subsection (b) of this  
20 section unless the person or person's agent files an application with the governing  
21 authority of the City of Milton, or the designee thereof, giving the person's age, income,  
22 and such additional information relative to receiving such exemption as will enable the  
23 governing authority of the City of Milton, or the designee thereof, to make a  
24 determination regarding the initial and continuing eligibility of such owner for such  
25 exemption. The governing authority of the City of Milton, or the designee thereof, shall  
26 provide application forms for this purpose.

27 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of  
28 the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year  
29 so long as the owner occupies the residence as a homestead. After a person has filed the  
30 proper application, as provided in subsection (c) of this section, it shall not be necessary to  
31 make application thereafter for any year and the exemption shall continue to be allowed to  
32 such person. It shall be the duty of any person granted the homestead exemption under  
33 subsection (b) of this section to notify the governing authority of the City of Milton, or the  
34 designee thereof, in the event that person for any reason becomes ineligible for that  
35 exemption.

(e) The exemption granted by subsection (b) of this section shall not apply to or affect state ad valorem taxes, county ad valorem taxes for county purposes, or county or independent school district ad valorem taxes for educational purposes. The homestead exemption granted by subsection (b) of this section shall be in addition to and not in lieu of any other homestead exemption applicable to municipal ad valorem taxes for municipal purposes.

(f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning on or after January 1, 2007.

## **ARTICLE VII**

### **GENERAL PROVISIONS**

#### **SECTION 7.10.**

Bonds for officials.

The officers and employees of this city, both elected and appointed, shall execute such surety or fidelity bonds in such amounts and upon such terms and conditions as the city council shall from time to time require by ordinance or as may be provided by law.

#### **SECTION 7.11.**

Charter language on other general matters.

Except as specifically provided otherwise by this charter, all rights, claims, actions, orders, contracts, and legal or administrative proceedings shall continue and any such ongoing work or cases shall be completed by such city agencies, personnel, or offices as may be provided by the city council.

#### **SECTION 7.12.**

Definitions and construction.

(a) Section captions in this charter are informative only and shall not be considered as a part thereof.

(b) The word "shall" is mandatory and the word "may" is permissive.

(c) The singular shall include the plural, the masculine shall include the feminine, and vice versa.

#### **SECTION 7.13.**

Qualified electors.

(a) For the purposes of the referendum election provided for in Section 7.14 of this charter and for the purposes of the special election to be held on the Tuesday after the first Monday in November, 2006, the qualified electors of the City of Milton shall be those qualified electors of Fulton County residing within the corporate limits of the City of Milton as described by Section 1.11 of this charter. At subsequent municipal elections, the qualified electors of the City of Milton shall be determined pursuant to the authority of Chapter 2 of Title 21 of the O.C.G.A., known as the "Georgia Election Code."

(b) Only for the purpose of holding and conducting the referendum election provided for by Section 7.14 of this charter and only for the purpose of holding and conducting the special election of the City of Milton to be held on the Tuesday after the first Monday in November, 2006, the election superintendent of Fulton County is vested with the powers and duties of the election superintendent of the City of Milton and the powers and duties of the governing authority of the City of Milton.

#### **SECTION 7.14.**

##### **Referendum.**

Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election superintendent of Fulton County shall call a special election for the purpose of submitting this Act to the qualified voters of the proposed City of Milton, as provided in Section 7.13 of this charter, for approval or rejection. The superintendent shall set the date of such election for the date of the general primary in 2006. The superintendent shall issue the call for such election at least 30 days prior to the date thereof. The superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of Fulton County. The ballot shall have written or printed thereon the words:

"( ) YES Do you approve the creation of the City of Milton and the property tax rate cap and the granting of the homestead exemptions described in the Act  
( ) NO creating the City of Milton?"

All persons desiring to vote for approval of the Act shall vote "Yes," and those persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for approval of the Act, it shall become of full force and effect; otherwise, it shall thereafter be void and of no force and effect.

1 The expense of the special election set forth in this section shall be borne by Fulton County.  
2 It shall be the duty of the superintendent to hold and conduct such election. It shall be his or  
3 her further duty to certify the result thereof to the Secretary of State.

#### 4 **SECTION 7.15.**

5 Effective dates.

6 (a) Sections 1.10 and 1.11 of this Act and those provisions of the Act necessary for the  
7 special election provided for in Section 7.14 of this charter shall become effective  
8 immediately upon this Act's approval by the Governor or upon its becoming law without  
9 such approval.

10 (b) Those provisions of this Act necessary for the special election to be held on the Tuesday  
11 after the first Monday in November, 2006, as provided by Article II of this charter shall be  
12 effective upon the certification of the results of the referendum election provided for by  
13 Section 7.14 of this charter, if this Act is approved at such referendum election.

14 (c) The remaining provisions of this Act shall become of full force and effect for all  
15 purposes on December 1, 2006, except that the initial mayor and councilmembers shall take  
16 office immediately following their election and by action of a quorum may prior to December  
17 1, 2006, meet and take actions binding on the city.

#### 18 **SECTION 7.16.**

19 Transition.

20 (a) A period of time will be needed for an orderly transition of various government functions  
21 from Fulton County to the City of Milton. Accordingly there shall be a transition period  
22 beginning on December 1, 2006, and ending at midnight on November 30, 2008. During  
23 such transition period, all provisions of this charter shall be effective as law, but not all  
24 provisions of this charter shall be implemented.

25 (b) During such transition period, Fulton County shall continue to provide within the  
26 territorial limits of Milton all government services and functions which Fulton County  
27 provided in that area during 2005 and at the same actual cost, except to the extent otherwise  
28 provided in this section; provided, however, that upon at least 30 days' prior written notice  
29 to Fulton County by the City of Milton, responsibility for any such service or function shall  
30 be transferred to the City of Milton. Beginning December 1, 2006, the City of Milton shall  
31 collect taxes, fees, assessments, fines and forfeitures, and other moneys within the territorial  
32 limits of Milton in the same manner as authorized immediately prior to the effective date of

1 this section; provided, however, that upon at least 30 days' prior written notice to Fulton  
2 County by the City of Milton, the authority to collect any tax, fee, assessment, fine or  
3 forfeiture, or other moneys shall remain with Fulton County after December 1, 2006, until  
4 such time as Fulton County receives subsequent notice from the City of Milton that such  
5 authority shall be transferred to the City of Milton.

6 (c) During the transition period, the governing authority of the City of Milton:

7 (1) Shall hold regular meetings and may hold special meetings as provided in this  
8 charter;

9 (2) May enact ordinances and resolutions as provided in this charter;

10 (3) May amend this charter by home rule action as provided by general law;

11 (4) May accept gifts and grants;

12 (5) May borrow money and incur indebtedness to the extent authorized by this charter  
13 and general law;

14 (6) May levy and collect an ad valorem tax for calendar years 2007 and 2008;

15 (7) May establish a fiscal year and budget;

16 (8) May create, alter, or abolish departments, boards, offices, commissions, and agencies  
17 of the city; appoint and remove officers and employees; and exercise all necessary or  
18 appropriate personnel and management functions; and

19 (9) May generally exercise any power granted by this charter or general law, except to  
20 the extent that a power is specifically and integrally related to the provision of a  
21 governmental service, function, or responsibility not yet provided or carried out by the  
22 city.

23 (d) Except as otherwise provided in this section, during the transition period the Municipal  
24 Court of the City of Milton shall not exercise its jurisdiction. During the transition period,  
25 all ordinances of Fulton County shall remain applicable within the territorial limits of Milton  
26 and the appropriate court or courts of Fulton County shall retain jurisdiction to enforce such  
27 ordinances. However, by appropriate agreement (and concurrent resolutions and ordinances  
28 if needed) Fulton County and Milton may during the transition period transfer all or part of  
29 such regulatory authority and the appropriate court jurisdiction to the City of Milton. Any  
30 transfer of jurisdiction to the City of Milton during or at the end of the transition period shall  
31 not in and of itself abate any judicial proceeding pending in Fulton County or the pending  
32 prosecution of any violation of any ordinance of Fulton County.

33 (e) During the transition period, the governing authority of Milton may at any time, without  
34 the necessity of any agreement by Fulton County, commence to exercise its planning and  
35 zoning powers; provided, however, that the city shall give the county notice of the date on  
36 which the city will assume the exercise of such powers. Upon the governing authority of

1 Milton commencing to exercise its planning and zoning powers, the Municipal Court of the  
2 City of Milton shall immediately have jurisdiction to enforce the planning and zoning  
3 ordinances of the city. The provisions of this subsection shall control over any conflicting  
4 provisions of any other subsection of this section.

5 (f) Effective upon the termination of the transition period, subsections (b) through (e) of this  
6 section shall cease to apply except for the last sentence of subsection (d) which shall remain  
7 effective. Effective upon the termination of the transition period, the City of Milton shall be  
8 a full functioning municipal corporation and subject to all general laws of this state.

#### 9 **SECTION 7.17.**

10 Directory nature of dates.

11 It is the intention of the General Assembly that this Act be construed as directory rather than  
12 mandatory with respect to any date prescribed in this Act. If it is necessary to delay any  
13 action called for in this Act for providential cause, delay in securing approval under the  
14 federal Voting Rights Act, or any other reason, it is the intention of the General Assembly  
15 that the action be delayed rather than abandoned. Any delay in performing any action under  
16 this Act, whether for cause or otherwise, shall not operate to frustrate the overall intent of  
17 this Act. Without limiting the generality of the foregoing it is specifically provided that:

18 (1) If it is not possible to hold the referendum election provided for in Section 7.14 of  
19 this Act on the date specified in that section, then such referendum shall be held as soon  
20 thereafter as is reasonably practicable; and

21 (2) If it is not possible to hold the first municipal election provided for in Section 2.11  
22 of this Act on the date specified in that section, then there shall be a special election for  
23 the initial members of the governing authority to be held as soon thereafter as is  
24 reasonably practicable, and the commencement of the initial terms of office shall be  
25 delayed accordingly.

#### 26 **SECTION 7.18.**

27 Charter commission.

28 At the first regularly scheduled city council meeting, five years after the inception of the City  
29 of Milton, the mayor and city council shall call for a charter commission to review the city's  
30 experience and recommend to the General Assembly any changes to the city charter.  
31 Members of the charter commission shall be appointed as follows: one by the mayor, one by  
32 the city council, and one by each member of the Georgia House of Representatives and

Senate whose district lies wholly or partially within the corporate boundaries of the City of Milton. All members of the charter commission must reside in the City of Milton. The commission must complete the recommendations within six months of its creation.

**SECTION 7.19.**

Severability.

In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full force and effect, as if the section, subsection, sentence, clause, or phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof. The General Assembly hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

**SECTION 7.20.**

General repealer.

All laws and parts of laws in conflict with this Act are repealed.

## APPENDIX A

The corporate limits of the City of Milton shall consist of that portion of Fulton County described as follows:

(1) Subject to the exclusion of that territory described in the other paragraphs of this Appendix A, the City of Milton shall include territory within the following boundary: Beginning at the intersection of Arnold Mill Road (a/k/a State Route 140) and the Fulton/Cherokee County line, run generally southwest along the center line of Arnold Mill Road to that point where Arnold Mill Road first intersects the Alpharetta City limits south of Green Road; thence follow the meanderings of the Alpharetta City limits generally northeastward and eastward to LL 1103; then proceeding north along the western edge of LL 1103 and LL 1058 to the northwestern most corner of the Harrington Falls subdivision; then proceeding eastward along the northern boundary of the Harrington Falls subdivision to the northwestern most corner of parcel 22463010340275; then proceeding east along the northern border of parcel 22463010340275 to the centerline of Providence Road, then south along the centerline of Providence Road to the Alpharetta City limits; then following the meanderings of the Alpharetta City limits generally easterly to the intersection of Ga. Route 400 and the Fulton/Forsyth County line; run thence generally north along the Fulton/Forsyth County Line and thence west and south along the Fulton County line to the point of beginning;

(2) The following territory shall be excluded from the corporate limits of the City of Milton:

A. parcel number 22447010580238 in its entirety;

B. all of the unincorporated land within LL 1123 and LL 1124, south and east of the centerline of Cumming Highway (a/k/a, Main Street, a/k/a Alpharetta Highway and a/k/a State Highway 9);

C. all of the unincorporated land within LL 1111 and LL 1050 south and east of the centerline of Cogburn Road;

D. all of the unincorporated land within LL 833, LL 834 and LL 895 that is situated south and east of the southernmost right of way of Bethany Bend Road;

E. all of the unincorporated land within LL 896 that is situated west of the westernmost right of way of Cogburn Road;

F. that property identified by parcel number 22-50900896-046 in LL 905, to the westernmost right of way of Cogburn Road.;



1 (3) As used in paragraph (1), of this Appendix A, the city limits of Alpharetta shall be  
2 those in existence as of January 1, 2006, including all properties that have legally been  
3 annexed into the City of Alpharetta as of that date; and

4 (4) The City of Milton shall not include any noncontiguous portion of the City of  
5 Alpharetta or the City of Roswell that was legally included within the city limits of either  
6 city as of January 1, 2006.

1

## APPENDIX B

2 Council Districts 1 through 6 shall consist of the territory of the City of Milton described in  
3 the Redistricting Plan Components Report attached to this Act and made a part thereof and  
4 further identified as "Plan Name: miltonp6re Plan Type: Local User: Blake  
5 Administrator: H046."

6 When used in such attachment, the terms "Tract" and "BG" (Block Group) shall mean and  
7 describe the same geographical boundaries as provided in the report of the Bureau of the  
8 Census for the United States decennial census of 2000 for the State of Georgia. The separate  
9 numeric designations in a Tract description which are underneath a "BG" heading shall mean  
10 and describe individual Blocks within a Block Group as provided in the report of the Bureau  
11 of the Census for the United States decennial census of 2000 for the State of Georgia. Any  
12 part of the City of Milton which is not included in any such district described in that  
13 attachment shall be included within that district contiguous to such part which contains the  
14 least population according to the United States decennial census of 2000 for the State of  
15 Georgia. Any part of the City of Milton which is described in that attachment as being in a  
16 particular district shall nevertheless not be included within such district if such part is not  
17 contiguous to such district. Such noncontiguous part shall instead be included with that  
18 district contiguous to such part which contains the least population according to the United  
19 States decennial census of 2000 for the State of Georgia.

APPENDIX C

CERTIFICATE AS TO MINIMUM STANDARDS  
FOR INCORPORATION OF A NEW MUNICIPAL CORPORATION

I, Representative Jan Jones, Georgia State Representative from the 46th District and the author of this bill introduced at the 2005 Session of the General Assembly of Georgia, which grants an original municipal charter to the City of Milton do hereby certify that this bill is in compliance with the minimum standards required by Chapter 31 of Title 36 of the O.C.G.A. This certificate is executed to conform to the requirements of Code Section 36-31-5 of the O.C.G.A.

So certified, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Representative, 46th District  
Georgia House of Representatives